

## **REMARKS**

Favorable reconsideration of the present application is requested. Claims 1-28 are pending. Claims 27-28 have been added. Support for amendments made herein may be found, for example, in paragraphs [0026-0034] of the specification as originally filed.

It is noted that claim 26 is not rejected as unpatentable over *Barrett*; but is also not explicitly indicated as including allowable subject matter. Based on the Examiner's statement on pages 17 and 18 of the Office Action, the Examiner believes the subject matter of claim 26 is allowable. Indeed, the Examiner suggests, "including the subject matter of claim 26," into claim 1 to further prosecution of claim 1 towards allowability. *Office Action* at 17-18. By way of this response, Applicants have rewritten claim 26 in independent form. **Allowance of amended claim 26 is requested.**

## **PRIOR ART REJECTION**

### **REJECTION UNDER 35 U.S.C. §103**

The Examiner rejects claims 1-25 under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,029,144 ("*Barrett*"). This rejection is respectfully traversed.

Applicant continues to disagree with the Examiner's interpretation of *Barrett* and claim 1. However, to further expedite prosecution, Applicant has amended claim 1 to further clarify that the second apparatus is adapted to "control activity stages according to said fuzzy process definitions in said

clinical workflow for the purpose of processing the process definitions." This feature is not disclosed or fairly suggested by *Barrett*. Applicant has also amended claims 10 and 24 in a similar manner.

In response to Applicant's argument that the control of the workflow system in *Barrett* rests solely with the human auditor in that the auditor workflow system 256 does not perform any action without instruction from the human auditor, the Examiner states:

The Examiner has considered the applicant's above arguments and has found that while the auditor system does receive a human auditor's input, it is the human input into the auditor system that determines what actions to perform, but *the auditor system itself still facilitates the carrying of said actions based on human auditor recommendations*. Furthermore, the applicant's claimed "second apparatus adapted to control activity stages" does not exclude said control being based on human input. The fact that the workflow is managed by the auditor system is further supported by Barrett teaching the execution of valid procedure being performed by an audit workflow application (Barrett: C 9, L 2-5).

Office Action at 17 (*emphasis added*).

As seen by the italicized portion in the statement reproduced above, the Examiner asserts that the auditor system 256 facilitates the carrying out of said actions based on human auditor recommendations, and therefore, the auditor system does exercise control.

Applicant does not necessarily agree with the Examiner's interpretation, but assuming *arguendo* that the Examiner's statement is true, the auditor system 256 still does not "control activity stages according to said fuzzy process definitions in said clinical workflow for the purpose of processing the process definitions," as now required by claim 1, and therefore, is not the second apparatus of claim 1. Indeed, under the Examiner's interpretation of

*Barrett*, at most the auditor system 256 carries out actions based on human auditor input, but not "according to said fuzzy process definitions in said clinical workflow," as required by claim 1.

*Barrett* discloses a system for testing selected expense entries in an audit queue for compliance with established policies and rules before reimbursement payment is made. When an expense entry fails a rule, the entry is flagged and sent to the auditor system (256 in FIG. 2) for manual audit and verification.

Auditor system 256 works with the policy checker 208 to verify significant changes to expense entries that result from the policy checking. But, the auditor system 256 receives only the expense entries that have failed rules and the changes in the expense entries recommended by policy checker 208 from audit output 404. The auditor system 256 routes this information to human auditors who can accept, reject or modify the changes suggested by policy checker 208.

The workflow auditor system 256 does not "control activity stages according to said fuzzy process definitions in said clinical workflow for the purpose of processing the process definitions," as required by claim 1. Control of the workflow auditor system 256 rests solely with the human auditor and is not performed according to fuzzy process definitions. Indeed, the auditor workflow system 256 does not perform any action without instruction from the human auditor. Thus, the workflow auditor system 256 is not the "second apparatus," of claim 1 because the workflow auditor system 256 does not "control activity stages according to said fuzzy process definitions in said

clinical workflow for the purpose of processing the process definitions," as required by claim 1.

For at least the foregoing reasons claim 1 is patentable over *Barrett*. Claims 10 and 24 are patentable over *Barrett* for at least reasons somewhat similar to those set forth above. Claims 2-9, 11-23 and 25 are patentable over *Barrett* at least by virtue of their dependency.

### **NEW CLAIMS**

Applicant has added new claims 27-28 by way of this response. These claims are believed to be patentable over the cited art for various reasons. Allowance of new claims 27-28 is requested.

### **CONCLUSION**

In view of the foregoing remarks, favorable reconsideration and allowance of the pending claims is requested.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a three (3) month extension of time for filing a reply to the outstanding Office Action and submit the required \$1,050 extension fee herewith.

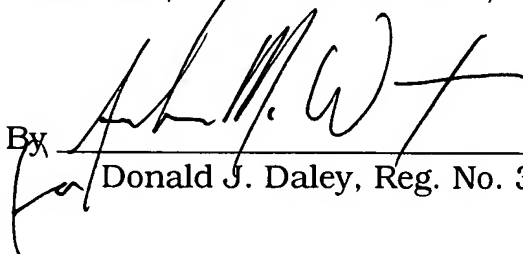
If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Andrew M. Waxman, Reg. No. 56,007, at the number of the undersigned listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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